

March 20, 2009

To: Teresa Parsons
Director's Review Program Supervisor

FROM Meredith Huff, SPHR
Director's Review Investigator

SUBJECT: Ahmad Wehbe v. Department of Transportation (DOT)
Allocation Review No. ALLO-08-029

Director's Review Conference

Mr. Ahmad Wehbe requested a Director's Review of his position's allocation by submitting a Request for Director's Review received May 16, 2008. On March 5, 2009, I conducted a Director's review conference by phone. Present by phone were Mr. Wehbe, employee, and Ms. Niki Pavlicek, Classification and Compensation Manager, representing DOT. During the review conference, it was agreed by Ms. Pavlicek that the review period for Mr. Wehbe's position is twelve months prior to May 16, 2007 in accordance with the collective bargaining agreement.

Director's Determination

The Director's review of DOT's allocation determination of Mr. Wehbe's position is complete. The review was based on written documentation, classifications and information gathered during the review conference. As the Director's investigator, I have carefully reviewed all of the file documentation, classifications and the information provided during the review conference. I conclude that on a best fit of his overall duties and responsibilities, Mr. Wehbe's position is properly allocated to the class of Transportation Engineer 3.

Background

Mr. Ahmad Wehbe works in the Northwest Region, Region Programs and Services Division, Utilities Office of DOT. On May 17, 2007, Mr. Wehbe submitted to the DOT NW Region Human Resources office a Classification Questionnaire (CQ) for his position, #10897. The supervisor section of the CQ was signed by Mr. Holman, immediate supervisor, and Mr. Wills, second-level supervisor. Mr. Wehbe believes his position should be reallocated to the Transportation Engineer 4 classification. (Exhibit B-2)

By letter dated April 29, 2008, Ms. Pavlicek notified Mr. Wehbe that his position was properly allocated as a Transportation Engineer 3 and denied his request for reallocation to the Transportation Engineer 4. (Exhibit B-1) On May 16, 2008, Mr. Wehbe submitted a Director's Review Request Form. (Exhibit A-1)

Summary of Mr. Wehbe's comments

Mr. Wehbe indicated that there are three parts to the Regional Utility Coordination program: utility permits and franchises, utility agreements, and railroad agreements. He stated his unit does not deal with the railroad agreements, but they do work with the utility permits, franchises and agreements. Mr. Wehbe explained that the utility staff are paid through fees collected for service to the utilities rather than through state funds. When a utility company needs services such as accommodation, permits or franchises, an account (JA) is opened which can range from \$3000 to \$50,000. Each time a DOT engineer or staff person deals with the utility request/application, the account is "billed" for that service. Mr. Wehbe explained that he monitors the fees and how much of the account is spent versus how much work is still needed. If necessary, he lets the utility know when more money is needed in the account.

Mr. Wehbe noted that he creates and updates a spreadsheet recording the number of applications received, the assigned engineer, and completion date. He confirmed his unit completed 270 utility applications in 2007 and 250 in 2008. (Exhibit C-5B)

Mr. Wehbe verbally corrected the CQ information by explaining that he does not supervise any supervisors or unit lead workers. He explained that on the CQ he was trying to indicate that the employees who report to him work independently. He stated that he will monitor the first meeting between his staff and the utility and at that meeting will provide information on the permit policies and RCW/WAC regulations for the utility. The employees who report to him process the applications for permits and franchises. He indicated he monitors the employees' work through discussions and by e-mails and he provides advice and opinions on difficult situations.

Mr. Wehbe indicated that as a utility coordination expert he receives calls regarding utility problems from utilities, cities and counties, as well as DOT units, such as construction, traffic and design units. For example, he may be called upon to resolve a disagreement between a DOT unit and a utility. Due to his knowledge, he communicates with both parties to help them reach an agreement. Mr. Wehbe pointed out that he also organizes the NW Region Annual Utility Coordination meeting between DOT and the utility companies. At this meeting, the highway development and changes are discussed with the utilities so everyone will be aware of what is coming in the next year. (Exhibit C -5A) Mr. Wehbe emphasized that he is assigned to respond to Mr. Will's phone calls during Mr. Wills' absence. This includes all questions on utilities and DOT policies.

Mr. Wehbe expressed concern that the NW Utility Corridor Unit performs similar work as his unit. However, the manager is allocated to the TE4 level and the utility application processors are at the TE3 level. He stated they process fewer applications for permits

and franchises than his unit. Mr. Wehbe indicated that in the interest of fairness and equality, his position should be reallocated to the TE4 and his staff's positions should also be reallocated to TE3. He also expressed his belief that desk audits should be done to complete this review process.

Summary of DOT's comments

Ms. Pavlicek emphasized there are two options for allocation at the Transportation Engineer 4 level and Mr. Wehbe does not meet these. First, his position does not require that he be a registered professional engineer. And secondly, he does not serve as a Technical Program Specialist; this function is provided by Mr. Holman, the Assistant Manager and Mr. Wehbe's immediate supervisor. Ms. Pavlicek noted that Mr. Wehbe's position does not fit either option of the Transportation Engineer 4. She confirmed that she determined that the Transportation Engineer 3 is the best fit for Mr. Wehbe's overall duties and responsibilities.

Ms. Pavlicek reminded Mr. Wehbe that comparison of his position to other positions doing similar work is not criteria for the allocation process.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work accomplished, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

In Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of *best fit*. The Board referenced Allegri v. Washington State University, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position.

A comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed, the level of responsibility assigned to an incumbent and the organization of the agency. However, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position. Flahaut v. Departments of Personnel and Labor & Industries, PAB No. ALLO 96-0009 (1996).

Classification Questionnaire

On the classification questionnaire, Mr. Wehbe lists his duties as follows, in part:

- **25%** Assist in Planning and managing the implementation of the Regional Utility Coordination Program, provide support documentation to help determine long term staffing needs, oversee fiscal controls for projects and be responsible for ensuring that the Utility staff meets the program goals of the unit: integrates all applicable federal, State and local Utility regulations and policies in the planning, design, construction and maintenance of the utilities within State R/W [right of way]. Assures legal and procedural adequacy of the regional Utility program. Possess solid knowledge of utility related WAC and RCW.
- **35%** Direct the work of supervisors and unit lead workers to ensure the timely delivery of Utility relocations. Develop project tracking tools, implement and monitor permitting relocations progress Milestones. Provide highest technical expertise and best methodology for complex utility situations; provide on-the-job training for subordinates.
- **15%** Utility Coordination Expert: Provide expert advice and services for regional coordination procedures, service delivery, success measurements, and cross-program coordination, usually involving multi-agencies and utilities. Provides utility regulatory advice, guidance, and support to Developer Services and Maintenance. Give recommendations for policies pertaining to personnel, budget and Utility Coordination Management. Conduct utilities cost-benefit studies and economic impact analyses for proposed major transportation facilities and services. Perform evaluations of applications for various transportation planning grants and programs for local jurisdictions.
- **10%** Participate as an active member of various statewide specialist teams as assigned working collaboratively to facilitate team approaches for strategic initiatives, permit and franchises streamlining, problem solving, and provide expertise in specialized field. Organize, define content and outline the NW Region Annual Utility Coordination Meeting.
- **10%** Perform duties of the NWR Utilities & RR Engineer during his absence. Assist the NWR Utilities & RR Engineer in selecting, training and evaluating of subordinate staff.
- **5%** Other duties as assigned.

Transportation Engineer 4 (TE4) (class code 66180)

The **Definition** for the TE4 states: *“As a registered professional engineer, performs professional engineering work which constitutes the practice of engineering as defined by RCW 18.43, or serves as a Technical Program Specialist.”*

Mr. Wehbe’s position does not require registration as a professional engineer; therefore, he does not meet this requirement of the Definition. To determine if his position meets the second part of the Definition, “serves as a Technical Program Specialist”, I reviewed the Distinguishing Characteristics.

The **Distinguishing Characteristics** of the TE4 state, in part: *“. . . As a Technical Program Specialist, assignments entail responsibility for a highly specialized District*

technical program or function of medium size and scope or serving as a Headquarters statewide specialist in an area of medium size/scope/impact. This work requires a thorough knowledge of technical engineering practices and Departmental policies, procedures, and standards. Incumbents report to a Transportation Engineer 5, Transportation Technical Engineer 5, Transportation Planning Specialist 5, or above and exercise considerable independence of action in decision making and problem solving. . . ”

Mr. Wehbe does not report to a Transportation Engineer 5 or higher level as required by the Distinguishing Characteristics. Mr. Wehbe’s supervisor is Mr. Dean Holman who is classified as a Transportation Engineer 4. Mr. Holman’s working title is Assistant Utility/RR Engineer. Mr. Holman’s position most likely fills the role of “Technical Program Specialist” for the Regional Utility Coordination Program.

Mr. Wehbe’s position’s responsibilities and assignments do not meet the level of technical program specialist and his position does not report to a Transportation Engineer 5 or higher as required by the Definition and Distinguishing Characteristics of the TE4. The Transportation Engineer 4 classification is not the best fit for Mr. Wehbe’s position’s overall scope of impact, duties and responsibilities.

Transportation Engineer 3 (TE3) (class code 66160)

The **Definition** of the TE3 states: “*Performs advance transportation engineering work under limited supervision.*”

The **Distinguishing Characteristics** of the TE3 states: “*At this level, incumbents are generally placed in charge of a major project or functional area which is characterized by supervising several support staff (staff may include or consist of contracted consultants) or serve as a staff specialist in a complex area of limited scope (this may include serving as a staff specialist consultant to Local Agencies). Incumbents are expected to possess a thorough working knowledge of agency policies, standards and procedures as well as engineering principles, methods and practices. Assignments require judgments in selecting and adapting techniques to solve transportation problems. Incumbents may represent the Department at public meetings, open houses, to local agencies, contractors, consultants, etc., for specific projects. While work is occasionally spot-checked and reviewed upon completion, incumbents are responsible for planning and carrying out projects with only minimal supervision. Staff at this level are often called on to assign, train and evaluate engineers and technicians.*

While the TE3 does not specifically address Mr. Wehbe’s unit that processes utilities’ applications for permits and franchises, the level and scope of duties and responsibilities described by the TE3 classification are comparable to the level and scope of his assigned duties and responsibilities. Mr. Wehbe is the supervisor and staff specialist in utility agreements, permits and franchises. He works under limited supervision, is assigned to a complex area of limited scope, represents the agency internally and with outside entities, and assists in training others. I have concluded that on a best fit basis, Mr. Wehbe’s position’s overall responsibilities and duties meet the expectations of the Definition and Distinguishing Characteristics of the TE3

classification. Mr. Wehbe's position is correctly allocated as a Transportation **Engineer3**.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following, in part:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board . . . Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

cc: Ahmad Wehbe, DOT
Niki Pavlicek, DOT
Lisa Skriletz, DOP

Enclosure: Exhibits List

Exhibits List

- A.** Filed by Ahmad Wehbe May 16, 2008:
 - 1. May 15, 2008 letter of request to DOP, Director's Review form attached.
 - 2. April 29, 2008 DOT determination letter—Position #10897.
 - 3. Classification Questionnaire and Essential Job Functions dated May 2007.
 - 4. Planning –SnoKing Area org chart
 - 5. WSDOT Essential Job Knowledge and Skills page dated 6/14/07.
 - 6. Environmental Office organization chart

- B.** Filed by DOT July 25, 2008:
 - 1. (A) HR allocation determination letter
 - 2. (B) Classification Questionnaire submitted and signed by Employee
Organizational Chart attached.
 - 3. (C) Classification Spec for Transportation Engineer 3 (530M)
 - 4. (D) Classification Spec for Transportation Engineer 4 (530N)

- C.** Filed by Ahmad Wehbe July 25th, 2008:
 - 1. (CQ) Classification Questionnaire Position #10897 dated and signed
 - 2. (EJK) Essential Job functions
 - 3. (EJKS) Essential Job Knowledge and Skills
 - 4. (competencies) Performance Competencies
 - 5. Exhibit A is the 2007-2008 Northwest region Annual Utility Coordination Meetings' information.
Exhibit B is spreadsheet statistics of applications completed.

- D.** Filed by Director's Investigator
 - 1. Transportation Engineer 3 (66160)
 - 2. Transportation Engineer 4 (66180)